In the High Court of Punjab and Haryana at Chandigarh

C.R. No. 6016 of 2004
Date of decision:12-9-2006

Bhajan Singh etc. .....Petitioners

Versus

Karnail Singh and others .....Respondents

CORAM: Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.H.S.Bakshi, Advocate, for the petitioners.
Mr. Sushil Gupta, Advocate, for the respondent No.1

VINOD K.SHARMA,J. (ORAL)

The present revision petition has been filed against the order dated 16-11-2004 passed by the learned Civil Judge (Jr.Divn.) Nakodar, vide which the defence of the defendant-petitioners has been struck off merely on the ground that the reply to the application for temporary injunction was not filed within the stipulated period even though no period has been mentioned in the order. It will be presumed that the learned trial Court was of the view that in view of the provisions of Order 8 Rule 1 of the CPC the reply to the application for temporary injunction was to be filed within 90 days. As the defendant-petitioners failed to file the same within the statutory period, their defence was liable to be struck off. This view of the Court below cannot be sustained in view of the law laid down by the Hon'ble Supreme Court in **Kailash Vs. Nankhu and others (2005) 4 SCC 480** Further more, the impugned order does not disclose any other reason for striking off the defence.

Accordingly, the revision petition is allowed and the impugned order is set aside and the petitioners are granted one last opportunity to file reply to the application. However, this shall be subject to payment of Rs. 2,000/- as costs.

12-9-2006, **(VINOD K.SHARMA)**
'dls' **JUDGE**